

REMARKS

The following remarks are responsive to the office action of May 7, 2003.

Reconsideration of the application is requested.

At the onset, Applicant expresses appreciation to the Examiner for allowing and determining that Claims 11-22, 25, 29, 31, 33, 35, 46-54 and 57-64 contain allowable subject matter and would be allowed if rewritten to include all of the limitations of base claim and all intervening claims, respectively.

In the most recent Office Action, the Examiner has rejected Claim 2-8, 30, 37-43 under 35 U.S.C. §112, second paragraph as being indefinite. The Examiner asserts that the following language is unclear: "based on whether or not a speech signal or data is contained in the signal received by the antenna and the radio unit". The aforementioned claims have been amended herewith to clarify the claims.

No new matter has been added and the specification contains support for the amendment. Support for the proposed amendment is found in the present specification, at pages 16, 19, 22, 26, 29 and 30, wherein these pages disclose that the speech/no-speech signal detector determines whether or not there is a speech signal within a received data signal.

Further, the Examiner pointed out a typo in Claim 38, line 10, appropriate correction has been made herewith by the above amendments.

The Examiner also has rejected Claims 9, 10, 32, 44, and 45 under 35 U.S.C. §103(a) as being unpatentable over Honda, U.S. Patent No. 5,970,084, in view of Iwakiri, U.S. Patent No. 5,889,815. The Examiner asserts that Honda teaches an antenna and high-frequency circuitry for receiving a signal, a plurality of finger receivers, a

synthesizer for synthesizing signals received from the finger receivers, a detector for detecting an error of the output signal of the synthesizer and a control section for controlling power to the fingers based on the detection result. The Examiner does acknowledge that Honda fails to disclose or teach a means for controlling a number of finger receivers based on whether speech is contained in data signals that have been inversely diffused. The Examiner asserts that Iwakiri teaches this limitation. The Examiner contends that Iwakiri discloses a control part that controls the plurality of fingers on the basis of channel state and orthogonal channel allocation. We respectfully disagree with the Examiner's contentions and traverse the Examiner's rejection with at least the following analysis.

The Examiner's assertion that Honda discloses a detection means for detecting an error of the output signal is correct, however, the claimed detection means does not perform the same function. The claimed detection means is used to detect whether there is a speech signal or not based on the data inversely diffused by said finger receivers, not the error of that signal. Therefore, Honda does not expressly teach or disclose a detection means for detecting the presence of a signal nor is his limitation inherently disclosed in Iwakiri.

Iwakiri teaches controlling a plurality of fingers based upon "channel state" information. However, one of ordinary skill in the art would not be able to determine from the reference whether channel state information necessarily means the presence or absence of a signal. Channel state information might include signal strength, frequency of the signal, etc....

The Examiner has also rejected Claims 23, 24, 34, 55 and 56 under 35 U.S.C. §103(a) as being unpatentable over Honda, U.S. Patent No. 5,970,084, in view of Ito, U.S. Patent No. 6,408,039. Ito is not prior art. Applicant respectfully submits a certified translation of the foreign priority document in this matter herewith. Accordingly, applicant submits that its foreign priority date is prior to the priority date of Ito, and in light of the foregoing, Applicant respectfully requests reconsideration in this regard.

Lastly, the Examiner asserts that we are required to amend the specification to include material that was incorporated by reference because the Examiner deemed this material to be essential. The Examiner stated that this amendment must be accompanied by an affidavit or declaration executed by the applicant stating that the amendatory material consists of the same material incorporated by reference in the referencing application. We respectfully disagree with the Examiner's assertion, as we do not believe that the application incorporates by reference a foreign application or essential material as the Examiner contends. As stated above, herewith we have enclosed a certified translation of the foreign priority document. However, if the Examiner still contends that the Applicant incorporates by reference essential material in the specification, Applicant respectfully requests that the Examiner contact the Applicant or its representative to resolve this matter.

Accordingly, in light of the foregoing amendments and arguments,
Applicant submits that all of the claims in this application are in patentable form and
define patentable subject matter and accordingly, Applicant request notice of allowance
in this matter.

Respectfully submitted,



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SW/PJE:lf
Enclosures